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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,106	07/23/2003	Timothy Jon Haataja	2316.1196USD1	8972
<div>7590 12/04/2007 Karen A. Fitzsimmons MERCHANT &amp; GOULD P.C. P.O. Box 2903 Minneapolis, MN 55402-0903</div>			<div>EXAMINER COZART, JERMIE E</div>	
			<div>ART UNIT 3726</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 12/04/2007</div>	<div>DELIVERY MODE PAPER</div>

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/626,106  
Filing Date: July 23, 2003  
Appellant(s): HAATAJA ET AL.

**MAILED**  
**DEC 04 2007**  
**GROUP 3700**

Karen A. Fitzsimmons  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 8/14/07 appealing from the Office action mailed 8/8/06.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,316,244	Zetena, Jr.	5-1994
3,351,699	Merckle	11-1967

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claims 1-6, 8, 9, 20-23 and 26-29 stand rejected under 35 U.S.C. 102(b) as having been anticipated by Zetena (US 5,316,244).***

Regarding claims 1-4, Zetena teaches the following in Figure 19: First **115** and second **109** U-shaped spaced apart members, providing a telescoping U-shaped trough with first and second trough sections (See mark-up of figure 19 which is attached for what is considered "first" and "second" trough "sections"), the first and second trough sections each having a terminal end **21** and a receiving end (See mark-up of figure 19 which is attached for what is considered "receiving ends"), the receiving ends of the first and second trough sections being in sliding contact with one another, the terminal ends

**21** of the first and second trough sections having the same connecting configuration such that the telescoping U-shaped trough is reversible, positioning the reversible telescoping U-shaped trough between the first and second end members **115,109**, and connecting the first and second trough sections of the reversible telescoping U-shaped trough to the first and second end members **115,109**, wherein the first and second trough sections remain freely slideable upon disconnecting at least one of the first and second trough sections from the respective first and second end members **115,109**.

Regarding **claim 5**, the first and second slideable trough sections have substantially the same coupling profile (U-shaped).

Regarding **claim 6**, the trough sections are slideable to fit between the first and second end **115,109**.

Regarding **claim 8**, as shown in figure 6, the tab 28 creates a slot and tab connection which stops further sliding movement.

Regarding **claim 9**, the retractable cable trough allows the cable trough to be positioned between first and second **109,155** end members and expanding the telescoping cable trough to connect the first and second sections to the first and second end members.

Regarding **claims 20-23, 26, and 27**, Zetena is considered to meet the "sliding movement of the first and second trough sections being limited between a minimum extension position and a maximum extension position to prevent sliding separating of the first and second trough sections" limitation because the trough member is locked in place by locking clips **25**. The clips **25** are also considered "stops".

***Claims 7, 24 and 25 stand rejected under 35 U.S.C. 103(a) as having been unpatentable over Zetena in view of Merckle (US 3,351,699).***

Zetena teaches the invention cited with the exception of the flanges of the second trough section having slots.

Merckle teaches in figure 8, flanges of a slideable trough having slots 30.

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to have provided the invention of Zetena with slots in the flanges of the second trough, in light of the teachings of Merckle, in order to provide easier disassembly of the troughs where the inner trough could be removed from above the outer trough by pulling the inner trough upwards (see figure 12 of Merckle where the inner trough **30** could be separated from the outer trough **36** more easily). Whereas in Zetena, the troughs have to be telescopically removed or assembled.

#### **(10) Response to Argument**

Appellants state "that the telescope member (15A) and the channel member (5) do not remain freely slideable upon disconnecting at least one of the first telescope member (15A) and the second telescope member (15B) from the corner connectors (109, 115) as required by claims 1, 2, and 20".

In response, the Examiner maintains that the telescope member(s) (15) is/are "sufficiently larger or smaller so that they can fit about or within the main channel members [5] for a longitudinally sliding fit". See column 1, lines 43-46. Since Zetena states that "Once the length is set, the members can be locked in place against further sliding movement[,] changing the length by pressing locking clip **25** over the respective

adjacent lips 11 and 21", then it is clearly inherent from the teachings that in order to disconnect the first telescope member (15A/15) from the corner connectors (109, 115), the locking clips (25) must therefore be removed and which in turn would inherently provide teaching of removing all four of the locking clips shown in Figure 19 to thereby allow the members (15A/15, 5) to remain freely slideable. Therefore, it is clearly apparent from the explicit disclosure and inherent teachings of Zetena, that in order to adjust the length and allow the members to be slideable with respect to one another, that it would be necessary to remove the clips.

Appellants state that "With the members "locked in place" by the clips 25, the first telescope member (15A) and the channel member (5) do not remain freely slideable upon disconnecting either of the first and second telescope members (15A, 15B) from the corner connectors (109, 115)".

In response, the Examiner acknowledges that the clips (25) prevent further sliding movement, and that therefore it must be acknowledged by Appellants that once the clips (25) which prevent further sliding movement are removed/disconnected from the corner connectors (109, 115), then the members (15A/15, 5) will remain freely slideable and therefore meets the limitations of claims 1, 2, and 20.

Appellants state that "the Office Action fails to point out where Zetena discloses that the locking clips 25 are to be removed so that the members remain freely slideable".

In response, the Examiner acknowledges that although Zetena does not explicitly disclose removing the locking clips (25), Zetena does teach that the locking clips

prevent further sliding movement and with that knowledge gleaned from Zetena it would be apparent that in order to for the length of the members (15A/15, 5) to be longitudinally adjusted or to slide with respect to one another then the locking clips must be removed. Therefore, once the locking clips (25) are removed and the members (15A/15, 5) disconnected from the corner connections (109, 115), then the members (15A/15, 5) will remain freely slideable with respect to one another. The fact that Zetena states that clips (25) can be fitted over the overlapping lips of two members (15A, 5) without the use of tools to prevent further sliding movement, allows for the rationale that should the clips need to be removed then the members (15A, 5) will remain freely slideable with respect to one another.

Appellants state that "Zetena does not meet the requirements that the members be in sliding contact and that the sliding movement be limited between a minimum extension position and a maximum extension position to prevent separation".

In response, the Examiner maintains that the since the members (15A/15, 5) are telescopic with respect to one another then the sliding movement can be limited between a minimum extension and a maximum extension position to prevent separation. Zetena states "The telescopic members [15] have the same cross-section, but are sufficiently larger or smaller so they can fit about or within the main channel members [5] for a longitudinally sliding fit", and with this longitudinally sliding fit, a minimum extension and a maximum extension position can be selected to prevent separation of the members (15/15A, 5).

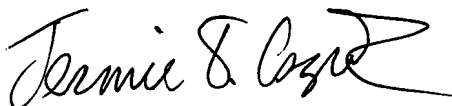


**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

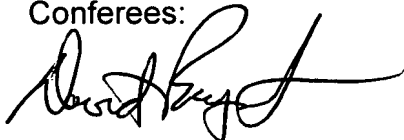
Respectfully submitted,



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**Figure 19 (Marked Up Copy) of Zetena, Jr. 5,316,244**

